

Message Text

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ORIGIN L-03

INFO OCT-01 EUR-12 EA-10 ISO-00 SIG-03 CIAE-00 DODE-00
NSAE-00 NSCE-00 SSO-00 ICAE-00 INRE-00 JUSE-00
OIC-02 AID-05 CEA-01 COME-00 EB-08 FRB-03 INR-10
IO-13 NEA-10 OPIC-03 SP-02 TRSE-00 LAB-04 SIL-01
AGRE-00 OMB-01 SS-15 PM-05 H-01 PA-01 SEC-01
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INFO AMEMBASSY LONDON
AMEMBASSY BONN
AMEMBASSY THE HAGUE
AMEMBASSY ROME
AMEMBASSY STOCKHOLM
AMEMBASSY TOKYO
AMEMBASSY COPENHAGEN
AMEMBASSY OTTAWA

C O N F I D E N T I A L STATE 105614

E.O. 11652:XGDS-3

TAGS: EGEN, EINV, ECOSOC, UN

SUBJECT:ECOSOC WORKING GROUP ON CORRUPT PRACTICES

REFS: (A) STATE 103334; (B) USUN 1461; (C) USUN 1394

1. RECENT MEETINGS OF THE ECOSOC WORKING GROUP ON CORRUPT
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PRACTICES HAVE FOCUSED PRIMARILY ON THE FRENCH DRAFT TREATY
ON BRIBERY AND GENERALLY REVOLVED AROUND U.S. EFFORTS TO
MODIFY THE FRENCH TEXT BY NARROWING THE CRIMINAL OFFENSE TO
CONFORM WITH U.S. LAW AND ADDING PREVENTIVE MEASURES OF A
REGULATORY CHARACTER. GENERALLY THE FRENCH ADOPTED THE
TACTIC OF REFUSING TO ACCEPT ANY SIGNIFICANT CHANGES IN
THEIR DRAFT EVEN WHERE A LARGE MAJORITY OF OECD COUNTRIES

FAVORED SUCH CHANGES. IN PRIVATE DISCUSSIONS WITH USDEL THE FRENCH INDICATED MORE FLEXIBILITY SUGGESTING THAT THEY WISH TO SEE ALL THE ISSUES AS A WHOLE AND PARTICULARLY HOW FAR THE U.S. WOULD MOVE FROM ITS PROPOSALS FOR RECORD-KEEPING OF AGENTS' FEES. THE EEC TABLED A TEXT ON RECORD-KEEPING, WHICH WHILE FAR SHORT OF U.S. EXPECTATIONS, AT LEAST INDICATES A DISPOSITION TO ACCEPT SOME GENERAL LANGUAGE ON THE SUBJECT.

2. THUS, AT THIS POINT, WE ARE NOT CLEAR WHETHER THE FRENCH WILL BE PREPARED TO NEGOTIATE SERIOUSLY ALTHOUGH DRIVING A VERY HARD BARGAIN, OR WHETHER, IN REFUSING TO ENTERTAIN AMENDMENT TO THEIR TEXT, FRENCH HOPE TO FRUSTRATE ADOPTION OF ANY CONVENTION. THERE IS SOME CONCERN THAT THE FRENCH MAY BE ADOPTING A NEW PATTERN OF NEGOTIATION TO FRUSTRATE INITIATIVES WITH WHICH THEY ARE UNHAPPY. THE SAME TACTICS, APPARENTLY, WERE USED IN THE RECENT NEGOTIATIONS ON THE HOSTAGES CONVENTION. MOREOVER, AT TWO POINTS IN THE RECENT MTG ON ILLICIT PAYMENTS, THE FRENCH OBJECTED TO U.S. PROPOSALS WHICH THE USDEL THOUGHT FRANCE HAD AGREED TO ACCEPT.

3. IT IS CLEAR THAT THE FRENCH AND OTHER EEC COUNTRIES WILL NOT SUPPORT A DIPLOMATIC CONFERENCE UNTIL THERE IS MORE AGREEMENT WITH THE U.S. ON THE SUBSTANCE OF AN
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AGREEMENT, BUT WE ARE ENCOURAGED BY THE EEC PROPOSAL TO HOLD EXTENSIVE OECD CONSULTATIONS IN PARIS THE FIRST WEEK IN JUNE. SUCH CONSULTATIONS WOULD PERMIT FURTHER CONSOLIDATION OF A COMMON OECD POSITION IN ADVANCE OF THE RESUMED SESSION OF THE WORKING GROUP NOW SCHEDULED FOR NEW YORK THE LAST WEEK OF JUNE.

4. THE FRENCH DRAFT PRESENTS A DIFFICULT TACTICAL PROBLEM FOR THE U.S. AS IT DEFINES A CRIMINAL OFFENSE MUCH BROADER THAN THAT ESTABLISHED BY THE NEW U.S. FOREIGN CORRUPT PRACTICES ACT WHILE NOT REQUIRING ANY NEW FRENCH LEGISLATION. FRANCE ALREADY HAS JURISDICTION, IN PRINCIPLE, OVER CRIMES BY FRENCH NATIONALS ABROAD. IT IS QUESTIONABLE WHETHER THE U.S. WOULD BE PREPARED TO EXPAND ITS LEGISLATION SIGNIFICANTLY IN ORDER TO OBTAIN COMMITMENTS FROM CIVIL LAW COUNTRIES WHICH MIGHT BE MEANINGLESS IN PRACTICE. ON THE OTHER HAND, THE FRENCH INITIATIVE IS A POSITIVE DEVELOPMENT WHICH GIVES CREDIBILITY TO THE U.S. PROPOSAL FOR AN AGREEMENT AND PUTS FRANCE OUT IN FRONT OF THE FEDERAL REPUBLIC AND THE U.K. WHICH ARE BOTH UNHAPPY WITH THE FRENCH PROPOSAL.

5. IN DISCUSSING THESE ISSUES WITH THE FRENCH, THE USDEL HAS CONSISTENTLY TAKEN THE ATTITUDE THAT THE FRENCH PROPOSAL IS A POSITIVE DEVELOPMENT, THAT THE U.S. RECOGNIZES THE NEED FOR FRENCH COOPERATION TO MAKE THIS NEGOTIATION SUCCEED AND THAT WE ARE PREPARED TO BE FLEXIBLE. AT THE SAME TIME, HOWEVER, WE HAVE INSISTED THAT (1) THE AGREEMENT CONTAIN MEANINGFUL SUBSTANCE, AND (2) NOT BE SO BROAD AS TO BE COMPLETELY UNREALISTIC FOR MOST COUNTRIES.

6. WE WOULD LIKE YOU TO MAINTAIN CONTACT WITH THE KEY OFFICIALS IN THE FOREIGN AFFAIRS AND FINANCE MINISTERIES, TO ASCERTAIN THAT GOF, IN COORDINATION WITH OTHER EC
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MEMBERS, IS MAKING NECESSARY ARRANGEMENTS FOR AD HOC OECD CONSULTATIONS, TO ASCERTAIN THE RESULTS OF ANY EEC COORDINATION THAT MAY BE IN PROGRESS, AND TO ENCOURAGE GOF FLEXIBILITY IN DEALING WITH U.S. CONCERNS. WE ANTICIPATE SENDING YOU SPECIFIC TEXTS TO TEST ON THE FRENCH IN THE WEEKS AHEAD BUT DO NOT WISH TO PROMISE ANY SUCH ACTION AT THIS STAGE. VANCE

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